

**UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION**

**IN RE: ETHICON, INC., PELVIC
REPAIR SYSTEM PRODUCTS
LIABILITY LITIGATION**

MDL No. 2327

TRANSFER ORDER

Before the Panel:* Pursuant to Panel Rule 7.1, plaintiffs in three Eastern Pennsylvania actions, listed on Schedule A, move to vacate our order conditionally transferring the actions to MDL No. 2327. Responding defendants Johnson & Johnson and Ethicon, Inc. (collectively Ethicon) oppose the motion to vacate.

After considering all argument of counsel, we find these actions involve common questions of fact with the actions previously transferred to MDL No. 2327, and that transfer will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. Plaintiffs do not dispute that their actions share questions of fact with MDL No. 2327. Like many of the already-centralized actions, these three actions involve factual questions arising from allegations that pelvic surgical mesh products manufactured by Ethicon and related entities were defectively designed, manufactured and marketed, resulting in serious injuries, and that defendants failed to provide appropriate warnings and instructions regarding the risks and dangers posed by the devices. *See In re: Ethicon, Inc., Pelvic Repair Sys. Prods. Liab. Litig., et al.*, 844 F. Supp. 2d 1359 (J.P.M.L. 2012).

In support of the motion to vacate, movants argue that these actions were improperly removed. The Panel often has held that jurisdictional issues do not present an impediment to transfer, as plaintiffs can present such arguments to the transferee judge.¹ *See, e.g., In re: Prudential Ins. Co. of Am. Sales Practices Litig.*, 170 F. Supp. 2d 1346, 1347-48 (J.P.M.L. 2001).

* Judge Paul J. Barbadoro and Judge Lewis A. Kaplan did not participate in the disposition of this matter.

¹ Moreover, under Panel Rule 2.1(d), the pendency of a conditional transfer order does not limit the pretrial jurisdiction of the court in which the subject action is pending. Between the date a remand or other motion is filed and the date the Panel finalizes transfer of the action to the MDL, a court wishing to rule upon that motion generally has adequate time to do so. The transferor judges in *Prochazka* and *Hubbard* have declined to rule on the motion to remand and have issued a stay in the actions.

-2-

Plaintiffs also argue that transfer will result in dismissal of their claims against defendants Secant Medical, Inc. and Secant Medical, LLC (Secant), because they are not named in the master complaint in MDL No. 2327. As we recently held in transferring 45 similar actions to MDL No. 2327 over plaintiffs' objections,² the transferee court has held that plaintiffs filing claims against defendants not named in the master complaint cannot *directly file* their claims in the Southern District of West Virginia. Plaintiffs' claims against such defendants are free to proceed in the MDL once they are transferred by the Panel pursuant to Section 1407.

IT IS THEREFORE ORDERED that pursuant to 28 U.S.C. § 1407, these actions are transferred to the Southern District of West Virginia and, with the consent of that court, assigned to the Honorable Joseph R. Goodwin for inclusion in the coordinated or consolidated pretrial proceedings.

PANEL ON MULTIDISTRICT LITIGATION



John G. Heyburn II
Chairman

Marjorie O. Rendell
Sarah S. Vance

Charles R. Breyer
Ellen Segal Huvelle

² See Transfer Order, MDL No. 2327 (J.P.M.L. Dec. 16, 2013); Transfer Order, MDL No. 2327 (J.P.M.L. Oct. 17, 2013).

**IN RE: ETHICON, INC., PELVIC
REPAIR SYSTEM PRODUCTS
LIABILITY LITIGATION**

MDL No. 2327

SCHEDULE A

Eastern District of Pennsylvania

Sherry Sulser, et al. v. Ethicon Women's Health and Urology, et al., C.A. No. 2:13-05493
Traci A. Prochazka, et al. v. Ethicon Women's Health and Urology, et al.,
C.A. No. 2:13-05494
Deborah Hubbard, et al. v. Ethicon Women's Health and Urology, et al.,
C.A. No. 2:13-05503



Activity in Case MDL No. 2327 IN RE: Ethicon, Inc., Pelvic Repair System Products Liability Litigation Existing Transfer Order (Transferee Court)

JPMLCMECF

to:

JPMLCMDECF

02/14/2014 02:52 PM

Hide Details

From: JPMLCMECF@jpml.uscourts.gov

To: JPMLCMDECF@jpml.uscourts.gov

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.

United States

United States Judicial Panel on Multidistrict Litigation

Notice of Electronic Filing

The following transaction was entered on 2/14/2014 at 2:52 PM EST and filed on 2/14/2014

Case Name: IN RE: Ethicon, Inc., Pelvic Repair System Products Liability Litigation

Case Number: [MDL No. 2327](#)

Filer:

Document Number: No document attached

Docket Text:

*****TEXT ONLY ENTRY*****

MINUTE ORDER -- TO TRANSFeree CLERK: ACTION REQUIRED

A transfer order has been filed today in this litigation. The order is directed to your court for filing. Rule 2.1 of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, states...An order to transfer or remand pursuant to 28 U.S.C. 1407 shall be effective only upon its filing with the clerk of the transferee district court.

Signed by Clerk of the Panel Jeffery N. Luthi on 2/14/2014.

Associated Cases: MDL No. 2327, PAE/2:13-cv-05493, PAE/2:13-cv-05494, PAE/2:13-cv-05503 (LAH)

Case Name: HUBBARD et al v. ETHICON WOMEN'S HEALTH & UROLOGY et al

Case Number: [PAE/2:13-cv-05503](#)

Filer:

WARNING: CASE CLOSED on 10/03/2013

Document Number: No document attached

Docket Text:

*****TEXT ONLY ENTRY*****

MINUTE ORDER -- TO TRANSFEREE CLERK: ACTION REQUIRED

A transfer order has been filed today in this litigation. The order is directed to your court for filing. Rule 2.1 of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, states...An order to transfer or remand pursuant to 28 U.S.C. 1407 shall be effective only upon its filing with the clerk of the transferee district court.

Signed by Clerk of the Panel Jeffery N. Luthi on 2/14/2014.

Associated Cases: MDL No. 2327, PAE/2:13-cv-05493, PAE/2:13-cv-05494, PAE/2:13-cv-05503 (LAH)

Case Name: PROCHAZKA et al v. ETHICON WOMEN'S HEALTH AND UROLOGY et al

Case Number: [PAE/2:13-cv-05494](#)

Filer:

WARNING: CASE CLOSED on 11/14/2013

Document Number: No document attached

Docket Text:

*****TEXT ONLY ENTRY*****

MINUTE ORDER -- TO TRANSFEREE CLERK: ACTION REQUIRED

A transfer order has been filed today in this litigation. The order is directed to your court for filing. Rule 2.1 of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, states...An order to transfer or remand pursuant to 28 U.S.C. 1407 shall be effective only upon its filing with the clerk of the transferee district court.

Signed by Clerk of the Panel Jeffery N. Luthi on 2/14/2014.

Associated Cases: MDL No. 2327, PAE/2:13-cv-05493, PAE/2:13-cv-05494, PAE/2:13-cv-05503 (LAH)

Case Name: SULSER et al v. ETHICON WOMEN'S HEALTH & UROLOGY et al

Case Number: [PAE/2:13-cv-05493](#)

Filer:

Document Number: No document attached

Docket Text:

*****TEXT ONLY ENTRY*****

MINUTE ORDER -- TO TRANSFEREE CLERK: ACTION REQUIRED

A transfer order has been filed today in this litigation. The order is directed to your court for filing. Rule 2.1 of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, states...An order to transfer or remand pursuant to 28 U.S.C. 1407 shall be effective only upon its filing with the clerk of the transferee district court.

Signed by Clerk of the Panel Jeffery N. Luthi on 2/14/2014.

Associated Cases: MDL No. 2327, PAE/2:13-cv-05493, PAE/2:13-cv-05494, PAE/2:13-cv-05503 (LAH)

No public notice (electronic or otherwise) sent because the entry is private



Activity in Case MDL No. 2327 IN RE: Ethicon, Inc., Pelvic Repair System Products
Liability Litigation Transfer Order
JPMLCMECF

to:

JPMLCMDECF

02/14/2014 02:52 PM

Hide Details

From: JPMLCMECF@jpml.uscourts.gov

To: JPMLCMDECF@jpml.uscourts.gov

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.

*****NOTE TO PUBLIC ACCESS USERS***** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.

United States

United States Judicial Panel on Multidistrict Litigation

Notice of Electronic Filing

The following transaction was entered on 2/14/2014 at 2:51 PM EST and filed on 2/14/2014

Case Name: IN RE: Ethicon, Inc., Pelvic Repair System Products Liability Litigation

Case Number: [MDL No. 2327](#)

Filer:

Document Number: [1441](#)

Docket Text:

TRANSFER ORDER re: pldg. ([1326] in MDL No. 2327, 9 in PAE/2:13-cv-05493, 9 in PAE/2:13-cv-05494, 9 in PAE/2:13-cv-05503), ([1393] in MDL No. 2327, 11 in PAE/2:13-cv-05493, 11 in PAE/2:13-cv-05494, 11 in PAE/2:13-cv-05503)

Transferring 3 action(s) - MDL No. 2327, PAE/2:13-cv-05493, PAE/2:13-cv-05494, PAE/2:13-cv-05503

Signed by Judge John G. Heyburn II, Chairman, PANEL ON MULTIDISTRICT LITIGATION, on 2/14/2014.

Associated Cases: MDL No. 2327, PAE/2:13-cv-05493, PAE/2:13-cv-05494, PAE/2:13-cv-05503 (LAH)

Case Name: HUBBARD et al v. ETHICON WOMEN'S HEALTH & UROLOGY et al

Case Number: [PAE/2:13-cv-05503](#)

Filer:

WARNING: CASE CLOSED on 10/03/2013

Document Number: [14](#)

Docket Text:

TRANSFER ORDER re: pldg. ([1326] in MDL No. 2327, 9 in PAE/2:13-cv-05493, 9 in PAE/2:13-cv-05494, 9 in PAE/2:13-cv-05503), ([1393] in MDL No. 2327, 11 in PAE/2:13-cv-05493, 11 in PAE/2:13-cv-05494, 11 in PAE/2:13-cv-05503)

Transferring 3 action(s) - MDL No. 2327, PAE/2:13-cv-05493, PAE/2:13-cv-05494, PAE/2:13-cv-05503

Signed by Judge John G. Heyburn II, Chairman, PANEL ON MULTIDISTRICT LITIGATION, on 2/14/2014.

Associated Cases: MDL No. 2327, PAE/2:13-cv-05493, PAE/2:13-cv-05494, PAE/2:13-cv-05503 (LAH)

Case Name: PROCHAZKA et al v. ETHICON WOMEN'S HEALTH AND UROLOGY et al

Case Number: [PAE/2:13-cv-05494](#)

Filer:

WARNING: CASE CLOSED on 11/14/2013

Document Number: [14](#)

Docket Text:

TRANSFER ORDER re: pldg. ([1326] in MDL No. 2327, 9 in PAE/2:13-cv-05493, 9 in PAE/2:13-cv-05494, 9 in PAE/2:13-cv-05503), ([1393] in MDL No. 2327, 11 in PAE/2:13-cv-05493, 11 in PAE/2:13-cv-05494, 11 in PAE/2:13-cv-05503)

Transferring 3 action(s) - MDL No. 2327, PAE/2:13-cv-05493, PAE/2:13-cv-05494, PAE/2:13-cv-05503

Signed by Judge John G. Heyburn II, Chairman, PANEL ON MULTIDISTRICT LITIGATION, on 2/14/2014.

Associated Cases: MDL No. 2327, PAE/2:13-cv-05493, PAE/2:13-cv-05494, PAE/2:13-cv-05503 (LAH)

Case Name: SULSER et al v. ETHICON WOMEN'S HEALTH & UROLOGY et al
Case Number: [PAE/2:13-cv-05493](#)
Filer:
Document Number: [14](#)

Docket Text:

TRANSFER ORDER re: pldg. ([1326] in MDL No. 2327, 9 in PAE/2:13-cv-05493, 9 in PAE/2:13-cv-05494, 9 in PAE/2:13-cv-05503), ([1393] in MDL No. 2327, 11 in PAE/2:13-cv-05493, 11 in PAE/2:13-cv-05494, 11 in PAE/2:13-cv-05503)

Transferring 3 action(s) - MDL No. 2327, PAE/2:13-cv-05493, PAE/2:13-cv-05494, PAE/2:13-cv-05503

Signed by Judge John G. Heyburn II, Chairman, PANEL ON MULTIDISTRICT LITIGATION, on 2/14/2014.

Associated Cases: MDL No. 2327, PAE/2:13-cv-05493, PAE/2:13-cv-05494, PAE/2:13-cv-05503 (LAH)

MDL No. 2327 Notice has been electronically mailed to:

Carl N Frankovitch carl@facslaw.com, terry@facslaw.com

Michael J Farrell mjf@farrell3.com, ewl@farrell3.com, jlm@farrell3.com, mef@farrell3.com, tjw@farrell3.com

Michael Bonasso mbonasso@fsblaw.com, etaylor@fsblaw.com, nthompson@fsblaw.com, pcoffield@fsblaw.com

Harry F. Bell, Jr hfbell@belllaw.com, camclain@belllaw.com

DAVID B. THOMAS dthomas@tcspllc.com, rdavis@tcspllc.com

Paul T Farrell, Jr paul@greeneketchum.com

Marc E. Williams marc.williams@nelsonmullins.com

MDL No. 2327 Notice will not be electronically mailed to:

PAE/2:13-cv-05503 Notice has been electronically mailed to:

Christy D. Jones christy.jones@butlersnow.com, ashley.lampkin@butlersnow.com, brandy.pitts@butlersnow.com, catherine.mason@butlersnow.com, ecf.notices@butlersnow.com, kcrawford@riker.com, laura.dixon@butlersnow.com, mkabbash@riker.com

LEE B. BALEFSKY lee.balefsky@klinespecter.com, laura.yavru-sakuk@klinespecter.com

MICHELLE L. TIGER michelle.tiger@klinespecter.com

JOE H. TUCKER, JR jtucker@tlgattorneys.com, FSewell@tlgattorneys.com

Thomas R Kline thomas.kline@klinespecter.com

KENNETH A. MURPHY kenneth.murphy@dbr.com

MELISSA A GRAFF melissa.graff@dbr.com

VENYCLES AMANDA WITTS Awitts@tlgattorneys.com

ANDREW P. REEVE andrew.reeve@dbr.com

PAE/2:13-cv-05503 Notice will not be electronically mailed to:

PAE/2:13-cv-05494 Notice has been electronically mailed to:

Christy D. Jones christy.jones@butlersnow.com, ashley.lampkin@butlersnow.com,
brandy.pitts@butlersnow.com, catherine.mason@butlersnow.com, ecf.notices@butlersnow.com,
kcrawford@riker.com, laura.dixon@butlersnow.com, mkabbash@riker.com

LEE B. BALEFSKY lee.balefsky@klinespecter.com, laura.yavru-sakuk@klinespecter.com

SHANIN SPECTER shanin.specter@klinespecter.com

MICHELLE L. TIGER michelle.tiger@klinespecter.com

JOE H. TUCKER, JR jtucker@tlgattorneys.com, FSewell@tlgattorneys.com

KENNETH A. MURPHY kenneth.murphy@dbr.com

MELISSA A GRAFF melissa.graff@dbr.com

VENYCLES AMANDA WITTS Awitts@tlgattorneys.com

ANDREW P. REEVE andrew.reeve@dbr.com

PAE/2:13-cv-05494 Notice will not be electronically mailed to:

PAE/2:13-cv-05493 Notice has been electronically mailed to:

Christy D. Jones christy.jones@butlersnow.com, ashley.lampkin@butlersnow.com,
brandy.pitts@butlersnow.com, catherine.mason@butlersnow.com, ecf.notices@butlersnow.com,
kcrawford@riker.com, laura.dixon@butlersnow.com, mkabbash@riker.com

LEE B. BALEFSKY lee.balefsky@klinespecter.com, laura.yavru-sakuk@klinespecter.com

SHANIN SPECTER shanin.specter@klinespecter.com

MICHELLE L. TIGER michelle.tiger@klinespecter.com

JOE H. TUCKER, JR jtucker@tlgattorneys.com, FSewell@tlgattorneys.com

KENNETH A. MURPHY kenneth.murphy@dbr.com

MELISSA A GRAFF melissa.graff@dbr.com

VENYCLES AMANDA WITTS Awitts@tlgattorneys.com

ANDREW P. REEVE andrew.reeve@dbr.com

PAE/2:13-cv-05493 Notice will not be electronically mailed to:

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:n/a

Electronic document Stamp:

[STAMP JPMLStamp_ID=1090522767 [Date=2/14/2014] [FileNumber=443945-0]

[45f339987fb8ac0266ebaec344943d0ef621290d847c63c431d34ca51f4c2e12f21f1
db3fea67d5590fce19a267e087dd2dfc550f70703ec1d492c8979c537c8]]